
THE
C A S E
OF THE
Forfeitures
IN
IRELAND
Fairly Stated, &c.

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IN

RELAND

JOHN J. BARRY

THE *H. Liddell*

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C A S E

OF THE

Forfeitures

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Fairly Stated,

WITH

The Reasons that induced
the Protestants there to
Purchase them.

L O N D O N,

Printed in the Year 1700.

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Since the Expedition of King *Henry* II. into *Ireland*, now about 530 years, the Lands of that Kingdom have, by reason of the many Rebellions, frequently chang'd their Proprietors, in so much that there are

very few Acres in that Country which have not more than once been vested in the Crown by Forfeitures.

All the Lands forfeited in that Kingdom since that time, (except what in the Rebellion of 1641, was by Act of Parliament secur'd to the Adventurers, for the Money they then rais'd in the necessity of Affairs here) have all along been bestow'd by the Kings of *England*, according to their own pleasure.

His present Majesty, following the Example of those who went before him, has been pleas'd to grant Lands to several great Persons, and others whom he esteem'd deserving of his Favour ; on which all the Chief Judges of that Kingdom, other Judges and Great Men in the Law, and others encourag'd by their Example, have as Purchasers, laid out considerable sums of Money. This they did because they knew that a Grant under the Great Seal is a good and legal Title, and That by which the English there have all along held their Estates.

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In regard of the Bill that is offer'd to resume those Grants, 'tis humbly represented to the Lords and Commons in Parliament, that they in making Laws, are, in their Great Goodness and Wisdom, always very tender of every Man's Right; That the Grantees, and those who purchas'd under them have a just and legal right to the Lands granted by his Majesty; that barring an Irish Act of Parliament, (which in this case is not consider'd as appears by the E. of *Ashlone's* Grant) the Duke of *Ormona's*, and all the Estates granted since 41, and in former times, may as well be resum'd as those given by his Majesty, since we are told that *no time occurs to the King and Parliament.*

'Tis said that Grants have frequently been resum'd by Parliaments, therefore they have a just right to do it: And if so neither the Grantee nor Purchaser has reason to complain, since the former is depriv'd of that which Parliaments have frequently dispos'd of, and the later
suffers

suffers as one who purchas'd under an uncertain, and bad Title, and forgot what the Law says, *Caveat Emptor*.

If this were so, it might perhaps be decent not to urge it in the present Case, considering the infinite Obligations His Majesty has laid upon us, and how reasonable it is, he should be allowed to reward those, whom he knew deserved great marks of his bounty and Favour. But laying these considerations aside, I will allow that, if indeed the nature of our constitution be such, that a Person who holds a Forfeited Estate by the Kings Grant, and he that purchases under that Grant, has but an uncertain and bad Title, and that it appears to be so, by the frequent resuming of Estates, then there is some weight in the Objection. But if the Parliament has never declar'd, That the King has no right to dispose of such Forfeitures to the Crown ; if the Judges, the Interpreters of our Laws, have always agreed, That such Titles are good in Law ; if they are the Titles by which the Lands of that, and this King.

Kingdom, have always been held, I humbly conceive the Case is otherwise.

A Late Author has taken a great deal of pains to shew, that Parliaments in former times have made such Resumptions.

He says (which he could not avoid owning) That, *Our constitution seems to have been, that the Kings always might make Grants, and that those Grants if pass'd, according to the forms prescribed by Law, were valid and pleadable not only against him, but his Successors.* If the Kings may make Grants, and they are valid; Does not an Act of Resumption deprive a man of that which he has a Just and Legal right to? And will it not be too great a hardship on the King, as well as the Persons concern'd in his Grants, to force him to take away what he has granted, and so to injure his Subjects whom he has always tenderly protected, and with the hazard of his blood preserved? That Author is of another opinion; for he tells us, *'Tis likewise manifest, that*
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the Legislative Power has had an uncontested right to look into those Grants, and to make them void whenever they are thought EXORBITANT. If 'tis only Exorbitant Grants that are to be look'd into, and made void, Will not a general Resumption, which voids all Grants, without examining what the Merits or Rewards of Persons are, be still a Hardship? What an Exorbitant Grant is, I don't understand, nor has the Legislative Power ever determin'd the exact boundaries between a Grant that is, and is not Exorbitant. Because this Author would have His Majesties Grants voided, 'tis plain he thinks them Exorbitant; But if many former Kings have made Grants vastly greater, which never were look'd into, or made void. If many of His Majesty's greatest Grants put together, will not equal the value of one Grant, made by the Parliament, since His Majesty's Reign, to one Person, and a Foreigner too (for which he is not the more in our Author's esteem) can they with any decency be reckoned amongst those Exorbitant Grants

Grants which ought to be resum'd?

'Tis hard to say what the Legislative Power can't do, *Id potest quod jure potest*. So that whosoever affirms they have power to resume the King's Grants, if they please, I believe, will not deny that they may likewise Repeal former Acts of Parliament, and consequently dissolve the Right that Men enjoy by them. He has indeed in his List of resumptions (which are nothing to the present purpose) instanced one, such as it is, whereby Grants were made void altho' confirmed by Parliament.

This Author when he says, That they have had such a Power, must mean only that they have exercised such a Power, and frequently resumed Estates, which being vested in the Crown by Forfeiture, have been granted away by the Kings of this Realm. His Impartial and Intelligent Reader, I believe, will own, That he has demonstrated nothing of this. He has, he says, taken a vast deal of pains; but to what purpose? Has he in his *laborious search*, discover-

ed any Act that voided the vast Grants made after the Rebellion in 1641; or that resum'd the escheated Counties, and other Lands disposed of by King *James* the First; or that broke the many and great Grants of Forfeitures made by Queen *Elizabeth*? Does he know of any Resumption of the great multitude of Estates given by King *Henry* the VIIIth? No: though they were acquired by Act of Parliament, and not by the King in War, yet the King dispos'd of them as he pleas'd, and the Grantees and Purchasers have not as yet complained of the hardship of a Resuming Act.

Have then the Grants of all the Princes since the Reformation created good Titles in *Ireland*, and passed current, and free from all Resumptions? Yes, 'tis certain they have, and that Author is challenged to shew the contrary. This, methinks, shews a custom ancient enough, to secure the Grants, of His present Majesty, to whom we owe more than to all the Kings before him. 'Twill

'Twill be ask'd whether there were no such Resumptions before the Reformation ; if there were, why (considering the streights we are in) shou'd not the same course be taken now to ease the Nation of Taxes ? In order to give this question a clear and satisfactory answer, I shall observe that the Grants made by our Princes have been of two sorts. First, of Lands that have fallen to the Crown by Rebellion or Conquest : Secondly, of Lands or Hereditaments that were of the Demefnes, or ancient Revenues of the Crown.

All Estates of the First sort are undoubtedly, by our Laws, in the gift of the King ; our constitution does not only allow him to dispose of these, but supposes he will do it. 'Tis so far from being a Crime in any of his Ministers to countenance the Kings doing this, that on the contrary, should they advise him not to make Grants, but to keep his Acquisitions in his own hands, they ought

ought to be censur'd for it : Because it might prove a thing of ill consequence to our Country, for if all the Revenues that fall to the Crown were kept there, the King would in time become absolute Possessor, and Lord of all, and his People must be his Slaves.

As it is certain then that the King may, and (for a very good reason) ought, by our constitution, to Grant away such Lands as these ; so it is as certain that not only since the Reformation, but *Norman Conquest* likewise, an Act never has passed to resumé Grants of this kind.

As to the other sort of Grants; I mean of the Lands or Hereditaments that were of the Demefoes or Ancient Revenue of the Crown, it must be own'd that they in former times, have made some noise in this Kingdom. All that a late Author has said, in a discourse too long for the Argument, relates only to such sort of resumptions : Therefore his precedents will not touch the *Gift* Grants, though

though among other things, his Book was plainly Calculated for them.

But since 'tis possible, many, at this time, may be induc'd to entertain too harsh and wrong sentiments concerning Grants of this kind ; since the prejudices of these Men, (if they should reckon that the Case of the one differs not from the other) will reach to forfeitures, and suggest to them that a resumption is highly reasonable : I will give the plainest and shortest account I can of those resumptions ; I mean of Grants of the Crown Revenues, and that taken from what the Author himself says ; and leave it to all True *English* Men (who love this Government) to Judge whether all his noise and clamour, and ill-tim'd reflections might not, in justice, as well as good breeding be spared.

He tells us (pag. 302) that *anciently, it seem'd a fundamental that the Crown-Lands were not alienable.*

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To whom did it seem so anciently? Not to the Kings themselves; for they all along made Grants of the Revenues of the Crown, and that so commonly, that this Author will be hardly able to name two since the Reign of *William I.* that have not made Grants of some of the Revenues of the Crown, and thus broken in to this fundamental: Nor to the Parliament; for they never have condemned such Grants, never made an Act of Parliament to prohibit them. This appears from the Act made (27. *Hen. 8. c. 11.*) to secure the Fees belonging to the Clerk of the signet: or, (if the Author will have it so, *vid. pag. 298*) To enforce by a positive Law, the ancient steps in passing grants from the Crown. Tho' in this he is mistaken in the Judgment of Lawyers (mention'd by himself, *p. 30*) who say that these methods are *directive* not *coercive*, or as *Hobart* says, (*Hob. Rep. Colt and Glover, p. 146*) That these kind of Statutes were made to put things in ordinary form, and to ease the Sovereign of Labour, but not to deprive him

him of Power. But however that be, this is certain, that to make such Grants as these, is what is permitted our Kings, even by the Statute Law, and the Law never prescribes a rule for doing that which it allows not to be done.

But does not this Author tell us that 11. *Hen. 4.* 'Twas plainly and directly enacted, That all manner of Hereditaments, which from thence forward should fall into the Crown, should not be alienable, but remain to the King. This, he says, is positive, unrepeal'd, (as we know) and still as much in force as *Magna Charta*, pag. 303.) Here this Gentleman has been guilty of great inadvertency, in citing this as a *Positive Act* and strong as *Magna Charta* for prohibiting alienations of the Revenues of the Crown. I hope he only forgot how he mentioned this Act in the foregoing part of this Book. (p. 145.). I must desire the Reader to turn to the place he quotes, the very same year of *Henry the IVth.* and the same *Parl. Roll.* There he tells us, The Commons pray the
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King, That for ever hereafter, no Grant might be made of any Hereditaments or other profits of the Crown, except Offices and Bailiwicks, till the King shall be quite out of Debt; and unless there be remaining in his Coffers sufficient for the Provision of his Family. The Act as 'tis here deliver'd is differing from the *Magna Charta*, the positive Law he mention'd before: And yet here he has given the Original a very dextrous turn; for the *French* in the Act is *En Temps ensuivants*, (which is no more than for the future) but he has render'd it, for ever hereafter; and so would infer that That, which 'tis plain was no more than a Petition to the King, not to Grant away the Hereditaments of the Crown till he had sufficient for the support of his Family, was a positive Law, which was to stand for ever, like *Magna Charta*, to Guard the Revenues of the Crown, and restrain the King from making Grants. This Gentleman is mistaken, the Wisdom of this Nation never did, and, I'm sure, never will make such an everlasting Law as he mentions. They foresaw
what

what the Power of the King in time would grow to, if there should never be any alienation, and that this fundamental would shake the foundation of the Government : They know better things. My Lord Coke tells us, (2d. Institut. pag. 496, 497) *That the King's Prerogative is part of the Law of England, and that this is shewn in his Letters Patents for Lands, Tenements, and other things.* Without this Prerogative I can't see how he can Govern, and discharge that great duty incumbent upon him. What is a King unless he have Power to Reward and Punish? Some may be so warmed with a zeal for the Publick, that, without any hopes of reward, they may fight for it, and that so resolutely too, that they *neither will give nor ask quarter.* But there is not in all Men so much Vertue, and Piety towards their Country. Some are excited to perform great Things out of hopes of the same Reward that others have reap'd before them: And if it should not lie in the power of the Prince to do it, his Subjects may suffer greatly for want of their Services. All the Lands that are in
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the King's Dominions are suppos'd to have been given by him, and whenever he gave, if any murmuring followed upon it, the reason of it was, not because he had not a right to give, but because he gave away that which was necessary even to the support of his Family; and 'twill appear, even from what this Author says, That 'twas then only that assumptions were thought of.

He tells us that the *first Regular assumption* was in the Reign of *Henry the VIth.* He does not then approve of the assumption made by *William Rufus*, who alienated many of the Crown-Lands, and took them again to give to others: Nor that of *King Stephen*, who play'd the same trick of giving, and taking to give again: Nor that of *Henry the II.* who laid his hands upon the *Regni redditus*, or *dominia*, dispos'd of by *King Stephen* among his Followers: Nor that of *King Richard the 1st.* his Son, who to furnish himself for his expedition to the Holy Land, sold several parcels of the Crown Revenue,

venue, and resum'd them afterwards.

These *resumptions* are exploded as irregular, being made only by the Kings themselves, who thought of their Gifts, as the old *Irisb* Proprietors do of their Estates, That they cannot so dispose of them, but that they still have still a good Title.

The Regular resumption made in the Reign of *Henry* the VIth. when the occasion and circumstance of that Act are consider'd, will, I believe, appear to be as little the purpose; and very groundlessly produc'd for a precedent at this time.

The Act was made in the 28th. year of *Henry* the VIth. The occasion of it is very well known. Sir *John Fortescue*, then Lord Chief Justice of the Kings-bench, tells us (*pag. 257*) that that Prince had, after he came to the Crown in Lordships, Lands, Tenements, and Rents, near hand to the fifth part of his Realm, above the Possessions of the Church; which was a greater Revenue, he said, than that
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of the *King of France*, or the *Sultan of Babylon*, or of any King that then Reigned over a Christian People. This great Revenue had in his time been so wasted with extravagant Grants, that 'twas but a little more than the fifth part of what was necessary to defray the charge of his House; for the necessary expences of his household besides all other ordinary charges, came to 24000 *l.* yearly, but the Revenue of the Crown was but 5000 *l.* *per. ann.* as is set forth in the preamble of the Act. Besides, the Commons tell the King, that 'twas made out in the former Parliament, that the King was indebted 372000 *l.* This Sum (which had swollen bigger now) was a vast one, as Money went in those days. In this poor and low estate of Affairs, when (as a Reverend Person who liv'd in those times, tells us, *vid. p. 355*) *The Revenues of the Crown were so rent away by ill Counsel, that the King was forc'd to live DE TALLAGIIS POPULI*; and was grown in debt 500000 *l.* when the poor Commons (as they say in the Act) by *sidding Victuals for his household, &c.* were

were well nigh destroyed: This first Regular Resumption (as 'tis call'd) was enacted.

The occasion of it we see ; 'Twas the low, and miserable condition to which the Crown, exhausted by extravagant Grants, was reduce'd, and the great Poverty of the Kingdom. If this shou'd, in good earnest be assigned for a reasonable and necessary cause of a resumption now, our murmuring might be well reckoned among our other iniquities, which we have reason to fear will pull down the Vengeance of God upon us.

But after all, what was this Act, does it contain any thing that gives the least colour of a precedent for that which is now propos'd ? Was it not made in favour of the King to get him bread ? Was he not to resume the Lands for the Crown ? Was there any invasion upon his Prerogative ? No : 'Twas not insinuated, that he had not a right to make such Grants. Sir John Fortescue, then Chief Justice of the Kings-bench (by whom our
 Author

Author thinks this Law was modelled) informs us how the King's Revenues were dispo'd of, and the Crown impoverish'd. And among other things, says, *That some of the said livelihood, HIS GOOD GRACE had given to such as served so notably, that as their Renown will be Eternal, so it did besit the King's Magnificence, to make their Rewards Everlasting in their Heirs, to his Honour, and their perpetual Memory.*

Here we have the opinion of a venerable and Learned Lawyer (as he is justly call'd) to assure us, that 'twas not only the right of the King, but well becoming his Majesty, to make Grants of Lands of the Crown, to deserving Persons and their Heirs for ever. And tho' a great many not so deserving, had, by their solicitations wrought themselves into his Possessions, almost to the utter disherison of his Crown; yet that worthy man, in such a low and deplorable state of Affairs, propos'd that they would give the King a subsidy to gratifie Persons in case of a resumption. • A plain demon-

monstration of this, that 'twas thought unreasonable then, to pray the King to resume the Revenues of the Crown (for this, after so much noise that is made, will appear to be the whole that either this or the following Acts do contain) which he had profusely given away, without enabling him, in some sort, to reprice the Persons whose Grants he should resume.

But in a Case so very plain, what need many words? In this Act there is no restraint upon the King, he is pray'd to resume, but this Prayer is in favour of himself, that his baskets and coffers might be fuller. There is no necessity laid upon him to enter into the Possessions of his Friends, and, together with them, to ruin multitudes of his Subjects. 'Tis so far from this, that the King when he agrees to the Petition and Resumption, excepts all those that he shall be pleas'd to grant savings to. And accordingly we find, that besides 16 savings inserted by the Commons, there were 185 made by the King. Which abundantly shews what this

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Act

Act of resumption was, it shews it indeed to be a *Regular one*, (as the Author calls it) and the Reader sees that 'tis an excellent precedent for the present Bill.

Among other things concerning this Act, the Author observes, *That the great Earl of SHREWSBURY, who had done so many Heroick Actions, and had so valiantly fought for the Honour of his Country, had but 100 l. per. ann. Pension for his Life, and some Lands in Ireland, then of no value, the said Earl having had no other recompence for his long services, which moderation of his is a reproach to the avarice of the present times.*

I must with this Gentleman own, that the Heroick Actions of that Noble Earl (whose name carries merit in it) deserved the greatest recompence that could be given: But considering the Poverty of those times, and the great value of Money, the Recompence, tho' not equal to the Merits of the Man, yet was greater than he represents it.

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He adds that he had besides some Lands in *Ireland* then of no value; the words of the Act are, *Till then yeilding nothing being in the hands of Rebels.* I can assure this Gentleman, that the Lands of that noble Lord, of which afterwards his Family was deprived by the Statute of Absentees made in *Ireland*, were more than all the *Irish* forfeitures disposed of by his present Majesty, put together. This considered, he might with more Justice have said, That this shews the *moderation* of his Grace, the present Duke of *Shrewsbury*, who, notwithstanding the great Services of his Ancestors in *Ireland*, notwithstanding his own great Merit, has not beg'd any Grant of the King in that Kingdom, where he had so good a claim. But since in comparing Grants made formerly with those of the present time, he has mentioned the favours conferred on a Noble Lord of that Great and Honourable Family, to make His Majesty's Grants look the greater, and more exorbitant; I will tell him what I find in my Lord Coke's 12th. Report (E. of *Shrewsbury's* Case) that
King

King *Henry VIII.* did grant to *George E.* of *Shrewsbury* and his Heirs, the *Abbey* of *Rufford*, with the Lands there-to belonging in the County of *Nottingham* ; the Lordship of *Rotheram*, in the County of *Tork* ; the *Abbeys* of *Chesterfield*, *Shirbrook* and *Gossadel* in the County of *Derby*, with divers other Lands and Tenements of great value. This I mention here, being led into it by the Author, to shew that there were great Grants in former times. Of which, more hereafter.

What this Act of *Henry VI.* was, what force and operation it had, whether that which this Gentleman would suggest, the Reader may guess from what follows. Had all the Crown Lands dispos'd of by that King, (except those that were secured to the Grantees by the several reservations made by the Commons and the King himself) by that resuming Act, been re-invested in the Crown ; there could have been no place left for the complaints, and several resuming Acts or Petitions that fol-

follow'd. By them the nature and validity of this Act, as well as their own force and operation is discover'd.

The very next year (29th Hen. 6.) Another appears of the same nature with this. In it there are great complaints made by the Commons of their *Poverty of many unportable charges laid upon them*, and of there being no benefit of the former *Resumption* (how so I wonder, if 'twas a positive resumming Act) *Therefore in the most lowly wise to us possible, we (say the Commons) beseechen you most nobly, graciously and tenderly to consider the great benefits that should grow unto you, and to this your Roialme, by the means of this resumption.*

The King in answer to the Petition tells them that by the advice of his Lords Spiritnal and Temporal, his exellency is agreed to resume, &c. But 'tis with Provisions and Exceptions for all that he pleases, as appears by the assent.

Four

Four years after this (33. *Hen. 6.*) another Act of Resumption passes, which shews what kind of Acts these were.

The Commons set forth, That notwithstanding their large Grants of Goods, he was indebted in outrageous Sums ; that the Revenue of his Land did not suffice to sustain his household, *whereof the People (say they) lament and sorrow piteously.* What became then of the Lands vested in the Crown by the former Resumptions?

The King assents to this Petition as before ; but with a *Reserve* for his *Prerogative* ; and savings for what he pleased. This shews the meaning of those Acts : They were only Prayers and Petitions to the King to pity them, and the low Estate of his Crown, and to resume as much of the Revenues he had given away, as was sufficient to support his Family. What could there be more in such a Resuming Act, wherein the King, in the Royal Assent, inserts a saving

saving for his Prerogative. This, I think, is plainly manifest by the effect, and operation of these Acts.

These were the Acts of Resumption made by *Henry VI.*

Some may object, (says this Author) that Henry VI. under whose Reign these three Resumptions were made, was a weak Prince, unfortunate abroad, ingaged in Factions at home, and kept under by the house of York. I would ask that Gentleman what need there is of such an objection; for what effect had all these Petitions? what was this weak King forced to do? Did not he assert his Prerogative? Were there any resumptions? by what followed 'twill appear whether there were or no.

This Gentleman was not aware that the insinuating this Objection makes greatly against him. For what opinion had the People of Resumptions at that time, or of their right of claiming them, when in the Reign of so weak a Prince, their Acts (as they are called) avail'd no more.

About

About five years after (1 *Edw. IV.*) as soon as that King came to the Crown; his Subjects desir'd a *Resumption*: By this all Grants were to be resum'd that were made since the latter end of *Rich. II.* which was above sixty years: The reasons will be clear to any one that knows the History of *England*. This Gentleman does well to name this among the other Precedents, to let us know the moderation of those times, and to shew that no Prescription will secure Men against a *resuming* Act. This *resumption*, he says, was too large to have any good effect. Why so? The more Lands it seiz'd, the better the effect: But it seems it did no execution. For

Three years after (*Anno 3 and 4 Edw. IV.*) there pass'd another Act. This Act as well as the former pass'd with such exceptions as it should please the King to make. A *prodigious number* of these savings, it seems, there were; *in so much that*, our Author says, *they seem intirely to defeat*

faat the design and intention of the Act.
Therefore.

Three or four years after (7 *Edw.* IV.) we are told of another ; this the King desires, for he tells them he is *resolv'd to live of his own, and not be a charge to his Subjects.* This passes, with what Provisions and Exceptions the King is pleas'd to make, but as ill luck would have it, *the Exceptions,* our Author tells us, *frustrated the good intentions of the Commons.* Thus according to him each of these three Acts was a *Felo de se.* Why then are they produc'd ? 'Tis to raise a Cloud of Witnesses, and alarum people with a great noise of Resumptions in former times, tho there be nothing at all in them. On the miscarriage of these another Act is made.

10 *Edw.* IV. But 'tis with such provisions and exceptions as by the K. shall be made, who tells the Commons he will reward every of his Subjects for their merits. We are told by this Author that a great number of exceptions are
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brought by the King, but these don't seem of that nature, as if 'twere design'd they should defeat the intentions of the House of Commons.

This Gentleman, in giving an account of these Resumptions, had done well if he had told us how they happen'd ; this would sufficiently inform us what they were. Every one knows how *Edward* the IV. came to the Throne, that he was Crown'd several years before the Death of *Hen. VI.* Our History tells us that to raise some with the ruin of others, he distributed the Lands and Possessions of those that sided with King *Henry* amongst his own Favourites and Followers ; having, the better to paliate his own proceedings, first made Proclamation, that whosoever of the contrary Faction would come in and submit, should be received to Grace, and restor'd to their Patrimonies. *Trust. Hist. pag.*

183.

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In the 10th. Year of his Reign, we find King *Henry* gets the ascendent again; K. *Edward IV.* Proclaimed an Usurper; is forc'd to quit the Kingdom. Then the Parliament was assembled at *Westminster*, wherein King *Edward* and his Friends, and Followers, are Attainted of High-Treason, and their Goods and Lands seized to King *Henry's* use. *Trust.*
Hist. pag. 194.

This accounts for the *Resumption* made three Years after (13. *Edward VI.* last mention'd) when King *Edward* got the better again. 'Twas an Act to re-invest Crown-Lands and Goods, which King *Edward IV.* had in the beginning of his Reign, which (as I've shewn) were afterwards seiz'd by Parliament, for King *Henry's* use, and had by him been disposed of among his Friends. So that this, it seems, was only an Act to resume from King *Henry's* Friends, to vest them in the Crown, and in effect to give them to King *Edward's* Favourites, for giving the Royal as-
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sent, he told the Commons, That the Bill should not withstand that *Right* and *Equity* which obliged him to do to every of his Subjects according to their Merits,

Anno 1 Henry VII. Another Act of *Resumption* passes, by this the K. is to seize and assume into his hands whatever *Henry VI.* his Unkle had, the 2d. day of *October*, in the 34th. Year of his Reign ; and it makes void all Grants made by King *Edward IV.* King *Edward V.* and *Richard III.* By Authority of Parliament, or otherwise.

Here is an excellent precedent for Resumptions, one that shews how a great deal of Money may be raised, if we will but Copy after this Exemplar : For this looks backward thro' three entire Reigns, and seizeth what was given even by Act of Parliament. Either this is a Regular *Resumption*, or it is not : If it be not, why is it mentioned ? If it be, this Gentleman shews where *England* may raise a vast Sum upon an extraordinary

nary occasion. 'Twill be only resuming what has been forfeited in *Ireland* since 1641, or if that should be too little, carrying the Act up to Queen *Elizabeth's* time ; which, according to what he has delivered, in his Doctrine of Resumptions, and Conquest together, may very well be done.

This Gentleman, when he, in order to influence the Parliament to resume, deliver'd this among his many other excellent Precedents, ought to have told us the true cause of this very extraordinary Act. 'Twas in the 1st. of *Henry VII.* who was Nephew to *Henry VI.* depos'd by *Edward IV.* in the 34th. year of his Reign. This *Edward*, together with *Edward V.* his Son, and *Richard III.* kept *Henry VI.* and his Heirs out of the Throne for many Years. When therefore the Crown return'd into the Lancastrian Line, and *Hen. VII.* was Crown'd, the Parliament call'd in the first year of his Reign made all the Grants of the former Usurpers void, and vested in the King all that
his

his Uncle possessed, at the time he was Depos'd. Is this any thing to the purpose in the present Case, and is taking from Usurpers and their Favourites, and vesting it in the King any invasion upon the King? no, *Hen. VII.* in giving the Royal assent reserv'd a power to himself, to make what exceptions he pleas'd, and to reward the Merits of his Friends,

The last Resumption of Crown Lands made by the Kings of *England*, was in this Kings Reign. After this now mentioned our Author tells us, there were some particular ones, as *anno 11. Henry VII.* An Act of *Resumption* of divers Castles, Mannors, Lands, and Tenements, which were formerly given by King *Edw. III.* and King *Richard II.* to *Edmond de Langley*, Duke of *York*. Though this would suit better with times which some expect hereafter, but I hope never will see, yet it ought not to be omitted here, because it affords a Precedent for looking further backward, and shews, that when we are resuming, we may rake deep into
Anti-

Antiquity, and grasp at things that were given 120 years before. This our Author is not for, he is for confining his Resuming Act within the Grants of the present Reign ; this we can't ascribe to any extravagant respect he has for His Majesty ; nor can I tell whether we owe it to his Moderation, for had he advised a large retrospect, he had, perhaps, been too disobliging, and defeated the designs of his Book. If we would follow him, 'tis hard to know what measures to take ; when he proposes a Pattern for us to imitate in our retrospection, he lays before us the Example of those Kings who resumed their own Grants without assistance of Parliament, *vid. pag. 428.* In another he tells us, that these are irregular, and when he comes to give account of the regular, he mentions such as either had no manner of effect at all ; or else took a very large compass, and went very far back, in their way breaking over Acts of Parliaments.

On

On the whole matter, these Observations may be made.

First, That all his noise about Resumptions, has been of Grants of Lands, and Revenues of the Crown.

Secondly, That such Grants as these are not contrary to the Common or Statute Laws of this Kingdom.

Thirdly, That they were never complained of, but in the lowest and most deplorable Circumstances of the Crown; and then not upon the account of their being illegal, but upon the account of the indigency of the Prince, and the necessities of his Family,

Fourthly, That the first Regular Resumption (as 'tis call'd) was in the reign of a Prince, who had committed the most waists upon the Crown; and had lessen'd almost all the revenues of it: And yet neither this, nor those that follow'd had any manner of effect.

Fifthly,

Fifthly, That the Resumptions afterwards in the Reigns of *Edw. IV.* and *H. VII.* were voidances of Grants made by Usurpers, as they were call'd, and vesting them in the prevailing Kings.

Sixthly, That these Resumptions many of them brook through Acts of Parliament, and unravel'd things for several Reigns backward.

Seventhly, That these cou'd not properly be called Acts, but rather Addresses to the King. For had they been positive Acts of Resumption, how cou'd they be defeated, as our Author owns they were.

Eighthly, That, However this be, yet 'tis certain that in all the resum-ing Acts, the King's Prerogative was always reserv'd, and Savings and Ex-ceptions allow'd to as many as he pleas'd.

From what has been said, it ap-pears what weight there is in this Gentleman's *Precedents*; what con-
F. clusions

clusions may be drawn from them; and how justly they are propos'd to influence the Legislative Power at this time. Former Kings impoverish'd the Crown, by their extravagant Grants; in the height of this misery, the Commons pray'd the King wou'd resume into his hands the Revenues of the Crown, for the support of his Family, but preserve what he pleas'd for his Friends; Therefore 'tis reasonable that we shou'd now resume all that our King has dispos'd of, all the Lands forfeited by Rebels, whom he subdu'd with the hazard of his Life. This is an extraordinary Inference.

'Tis the King's Prerogative, his undoubted right to dispose of such Forfeitures: 'Tis a right that never was deny'd to any former Prince: And a positive *resumption* of his own Grant is what has never been required from any King of *England*. Before this Gentleman, who seems to be mightily concern'd for the good of his Country, had press'd it so violently, I wish he had considered.

First,

First, Whether such a Resumption as this would not reflect too much on the *avarice of the present age*.

Secondly, Whether his Majesty, who has rescu'd us from Slavery and Popery, who has Fought our Battles Abroad, who has restor'd the Balance of *Europe*, and thereby retriev'd the Honour and Glory of the English Nation, ought to be deny'd that, which was the undoubted Prerogative of his Predecessors.

Thirdly, Whether this be agreeable to our former Acts, whether it will not sound odd here after in our Annals, and make us seem to our Neighbours a wavering and uncertain People.

Fourthly, Whether it be not dangerous and unpolitick to tell the World, and our Posterity, in so solemn a manner, that it shall not be in the power of our King to reward the services of Men who hazard their Lives and Fortunes, in the times of greatest danger.

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Fifthly,

Fifthly, Whether it be not too great a hardship to turn Men out of the Possessions which they enjoy by the Laws of this Land, and thereby ruine multitudes of Families.

To silence the murmuring and complaints of all Persons, whether Grantees or Purchasers, and to justify a *Resumption*, we are told of a claim made by the House of Commons, and of His Majesty's promise. If the Parliament claim'd these Estates to apply to the use of the War, and His Majesty promis'd it should be so, were not those who obtain'd Grants afterwards, and laid out Money upon them very faulty? are such practices to be encourag'd? and do not they justly suffer?

This caution here given, this claim put in by the House of Commons, cannot, I humbly conceive, in Equity be pleaded against the Earl of *Ross*, and those who Purchase under him; not only because his Grant was before any such caution, but be-
cause

cause likewise there was afterwards a saving for him in the Bill that passed the Commons House. The same may be said of the Earl of *Athlone*, and those who purchased under him, since, besides an *Irish* Act of Parliament (which has been always reckoned solid enough to settle Lands in that Country) there were Addresses to the King, in his behalf, here in *England*.

But let us see what the claim was which the House of Commons made to these Estates, and what 'twas the King promis'd.

We find in *Octob.* 1690, 'twas the opinion of the Committee of the whole House, that Ten hundred thousand Pounds should be rais'd upon the credit, or by sale of the forfeited Estates in *Ireland*. 'Twas resolved that a Bill should be brought in for applying the same to the charge of the War. The Bill pass'd the Commons House, but fell in the House of Lords. His Majesty's promise was made just five days after it pass'd in the lower House. The words were these, *I do likewise think it proper to assure you, that I shall not make*

make any Grant of the forfeited Lands in England or Ireland, till there be another opportunity of settling the matter in Parliament, in such manner as shall be thought most expedient.

Here we see what the King's promise was, 'twas that he would not make any Grants till there was another opportunity of settling that matter in Parliament, as should be thought most expedient. To me it seems that the matter was settled by the Lords, and that they, by letting the Bill fall, shew'd what they thought most expedient, viz. To let things go in the ancient course, not to break in upon the Kings Prerogative, but suffer him to dispose of the Estates that were vested in him. By this Fate of the Bill in the upper House, to me it seems plain, that the King was discharg'd of his promise, and that the claim (as 'tis call'd) of the House of Commons was determin'd, for with the Bill lost in the House of Peers, the opportunity was lost of settling that matter in Parliament, and this likewise concluded the Commons, and put an end to their claim.

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The next year another Bill was brought in to vest these forfeited Estates in their Majesties; this Bill fell in the lower, as the other had done in the upper House. The same fortune had the several other Bills afterwards in the years following, as 92, 93, 94, 95, 97, 98.

From this account it appears, that this claim put in by the House of Commons, which ought to have deterred people from meddling with the forfeitures, was in the year 1690; That so long ago people saw the Lords thought it unreasonable by their letting it fall in their House; that in all the years following, when 'twas propos'd, which was in seven several Sessions, and 'twas rejected perpetually in the Commons House.

'Twas but reasonable that the *English* there, who suffered for adhering to *England*, and were miserably ruined by the rapine of their Enemies, should be allow'd, after a longer tract of time, than we allot to the Life of Man, at last to Plant the Country, and settle themselves.

A Resumption they could not fear; 'twas what they never knew practised to defraude the King's Title; and they could not imagine, that it would have its rise in this Reign, or be let loose upon them, to unsettle and ruin them again, who had done so much, and had been so long wasted by the miseries of War. Since then the States of the Nation did not think fit nine years since, when the Bill was brought in, nor any time after, to vest the forfeitures of that Kingdom in His Majesty to help to defray the charges of the War; 'tis humbly represented, that it will be too great a hardship to do it now. Whilst the Lands were the Parliaments own (that is, before the King made them the Properties of others) they might have done with them what they would: The Case is now otherwise; they have been suffered to go into other hands. Men have laid out great Sums in Building, in Improving, in Purchasing, in making good their titles at Law. These considerations, and many more that could be named, make a Resumption a greater

greater severity than ever the Lords and Commons of *England*, who have been always not only Just, but Generous and Merciful, can practice on any people. They will not resume forfeitures, when Men of *English* Blood and Religion are to suffer so much by it ; they will not suffer an inquisition to go into that Country, which will set every Man at variance with his Neighbour, and turn many thousand Protestant Families out of their habitations.

But this will not satisfy the Gentleman whom I have mentioned so often. He says the War of *Ireland* has cost *England* a vast Sum of Money ; I know it has cost a great deal, but little in comparison of what he mentions. But what if it has? Why then he says, 'tis reasonable that the forfeitures there should go to pay part of the reckoning. If the forfeitures, in Justice, ought to go to them that the troubles of *Ireland* have been most chargeable to, *England*, would find, when they came to a fair reckoning, that the Protestants of *Ireland* have the best claim

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to

to them : For the whole War, that we were so long engag'd in has not cost us near so much as the Troubles of *Ireland* have cost them : I mean in proportion to the People, and Wealth of the Kingdom. This reckoning will be easily understood, when we consider, how long the Protestant Gentlemen of *Ireland* lost the whole income of their Estates ; how many years after (and even to this day) their Estates yield but part of their ancient Rent ; how almost all the Herds, Flocks, and Goods, and Wealth of the Protestants were plundr'd and seiz'd by their Enemies. This will shew how reasonable it is by a resumption to make them pay again for what they have so severely paid for already.

Had one of the old *Irish* Kings rul'd absolutely in that Kingdom, *England* would have been satisfied in this War to lay out a much greater Sum to keep it out of the hands, or Alliance of *France*, without desiring to be reimburs'd, any more than in *Savoy* or *Flanders*.

But

But 'tis said the K. has been misinform'd in the value of his Grants, therefore a resumption is highly reasonable. If he has, there is an old way chalk'd out to redeem that. The custom was to desire the King to consider the Merits of those whom he had given to. But has he been misinform'd in all? No sure: why then a General Resumption? But wherein has he been impos'd on? In the Persons; or the Grants? There can be no great mistake in the Persons; some might have been recommended to his favour, and by their solicitations and importuning procure Grants, who had no great Merit: But the most considerable are persons whose Merits he knew; and what rewards they deserv'd; such as have accompanied him in his dangers; and have serv'd him in his Wars, and particularly in his Great and Glorious Expedition to restore our Laws and Religion, and to secure the Liberty of *Europ^s*. Against some of these 'tis objected by some, that they are *Foreigners*, if they that came in to our Succour, to deliver us from Slavery are to be called

Foreigners, I can't tell how the *Samaritan* in the Gospel could be call'd a *Neighbour*.

Some without excepting against very many of the persons, say the Grants are Exorbitant. They are not sure too Great for his Majesty to give. Many of the Kings of *England* have given much more than all them put together to private persons in *Ireland*, in former times. *Henry Cromwell's* Physician pass'd Patent for very near as many Acres of Land, as are even by the Commissioners return'd in the two best Grants of Forfeitures made by his Majesty. But supposing the Grants to be great as they are represented: I humbly am of opinion, that 'tis more for the Honour and Interest of *England*, that they should stand, than that *Roch*, who by swimming into *Derry* with the hazard of his Life preserv'd that place, should in a General Resumption lose his little Grant. Examples of our liberality in rewarding may be of advantage to us, but it cannot be either profitable or honourable, to tell the world we will not reward. We may have occasion for
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the assistance of our Neighbours again, for the things of this world are very instable. This consideration may make it seem greater Wisdom in us, to let the Monuments of our Liberty stand, to encourage others hereafter, if occasion should be, to come to our Succour; than to deprive those of the Rewards of their Prince, who follow'd his Fortune and Dangers, in his undertaking to Deliver and Preserve us.

But after all, let us see, whether these Grants are so extravagant or no. When we say they are too great, we mean that there is too much taken from the Publick; that they might have been sold for much, and the price given to help to bear the expences of the War. When we talk of what is given from us, we are to take things as they were when we call'd them ours. Had the Forfeitures in *Ireland* been sold for the use of the Publick in the year 1690, or some years after, 'tis certain they would not have rais'd near 200000*l*. What then are the Exorbitant Grants that the King has given from us? Has
he

he given to all his Friends all that serv'd
 and suffer'd in that Ringdom twice
 as much as what the Parliament here
 gave to Duke *Schomberg*? 'Tis true
 the Grants now are represented to
 be much greater. 'Tis no won-
 der; 'twas the interest of those who
 did it, to make large returns, other-
 wise the Commission would have had
 an end. The Sum might very well
 be large, when they return'd forfeit-
 ed Acres, one with another, about
 trible what they were valued by Sir
W. Petty, who had as computing a
 head as other Men; (this is plain like-
 wise in the private Estate which is
 return'd at 26000 *l. per annum*, when
 'twas never set for above 8000 *l.*)
 when they have returned so small
 incumbrances on Estates; when there
 are but four Intails return'd in all the
 forfeitures; when the Rent of 12000 *l.*
per annum reserved to the Crown on
 those Grants is not consider'd; when
 the number as well as value of Acres
 is magnified. If it shall happen that
 four of 500000 *l.* could be now rais'd
 (which sure is the very utmost that can
 be) 'tis hardly worth *England's* while,
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considering how its gotten. It may be construed by some as a particular slight put upon the K. many must suffer who have deserv'd well of the Kingdom; legal Rights must be made void; great injury must be done to Purchasers and Improvers; and a grievous inquisition must afflict and unsettle that unhappy Kingdom.

This paper is written by a private disinterested person, one who inoffensively to each particular, sincerely desires the general happiness and prosperity of this Kingdom: one who heartily wishes a firm and immutable establishment of this Government, and the Protestant Religion, in opposition to the incouragement of either Popery or Papist (whether Outlaw'd or others) to which we have reason to fear that we may be once again obnoxious, unless prevented by great Wisdom and care.

F I N I S.

ERRATA.

PAG. 35. Line 19. for *assumption*, *resumption*.
P. 37-38. dele still.

Pag. 31. L. 1. read a plain demonstration, that, Or.

Pag. 36. L. 30. read *may* *consequently*.

Pag. 41. L. 8. for *solid* read *valle*.

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